

APR 21 2015

RECEIVED
CITY CLERK'S OFFICE**BEFORE THE HEARING EXAMINER FOR THE CITY OF RENTON****Renton Hampton Inn and Suites****FINAL DECISION****Master Site Plan, Site Plan, Parking
Modification, Street Modification,
Setback Variance & Critical Areas
Variance****LUA14-000061, SA-M, SA-H, ECF,
MOD, VA-A, VA-H****SUMMARY**

The applicant has requested a Master Site Plan Review, Site Plan Review, Environmental Review, a Parking Modification, Street Modification, Setback Variance and a Critical Area Variance in order to construct a 105 guest room hotel and structured parking area. The applicant has further requested a modification to the conditions of approval to reduce the transportation impact fee to reflect credit for construction of improvements (Ex. 22) pursuant to RMC 4-1-190(J) and (L). The Master Site Plan Review, Site Plan Review, Environmental Review, Parking Modification, Setback Variance and Street Modification are approved with conditions. The requested transportation impact fee reduction is dismissed due to lack of jurisdiction.

TESTIMONY**Staff Testimony**

Rocale Timmons, senior planner, described the history of the project and the progress to date (Ex. 19). She described the site characteristics and the modifications and variance requests by the applicant. Ms. Timmons noted the applicant had worked to achieve a design that is acceptable to the City after a lengthy design and review process. She described the proposed pedestrian plaza and recessed entry. Both are designed to provide pedestrian amenities and improve the appearance of the project. There will be a roof deck with views to Lake Washington. The applicant has provided a step back design which transition well with the mixed use property to the north.

1
2 There have been several requests for review including master site plan review, site plan review,
3 design review, setback variance, critical areas variance, a parking modification, and a right of way
4 dedication street modification. The City has worked with the applicant on the orientation and scale
5 of the building to provide transitions to surrounding development at an appropriate scale for the
6 neighborhood. Staff was very concerned about critical slopes. The original proposal had a very large
7 parking garage which essentially eliminated the critical area. The revised proposal is for
8 underground parking which will preserve most of the critical area.

9 The staff focused on three categories of conditions: zoning, design standards, and infrastructure.
10 Most of these issues are fine details that can be resolved as part of the engineering review. Staff
11 recommends approval of the project with conditions.
12

13 In response to the Examiner, Ms. Timmons stated with respect to the right of way dedication, the
14 applicant requested a modification to allow for a reduction in dedication. The transportation
15 department has determined the extra right of way is unnecessary except for a 4.5 ft dedication. That
16 is sufficient to provide the proper right of way and infrastructure improvements in the subject
17 vicinity. Additionally, the pedestrian plaza will provide an additional amenity that would not be
18 possible without the right of way dedication reduction.
19

20 With respect to storm drainage, Ms. Timmons said the applicant originally proposed to drain storm
21 drainage to the north. The City would prefer the drainage go south, which is the original discharge
22 point. The proposed drainage could potentially flood an adjacent park. However, the applicant could
23 create a drainage detention vault which would serve to remove any need for alterations to the system
24 downstream. The applicant has the option to either provide a vault or improve the system
25 downstream.
26

27 Ms. Timmons stated the City's recommendations for parking is the proposed 105 spaces. The City is
28 supportive of the requested variance because the applicant has adequately demonstrated the reduced
29 parking will meet the project's demands. The City is concerned the refuse system might be blocked
30 by a parking stall.
31

32 With respect to the traffic impact analysis, Ms. Timmons stated the City's working on a new
33 Comprehensive Plan which will address traffic concurrency issues.
34

35 **Applicant Testimony**

36 Jessica Clawson, the applicant's attorney, stated the process has been involved. She stated they are
37 concerned about Staff Condition of Approval #11.

38 Brad Lincoln PE, the applicant's traffic consultant, gave a brief history of the project. He described
39 the applicant's response to the Pertee peer review (Ex. 8-9). The peer review recommended
40 pedestrian improvements south of the development. They also addressed comments from the
41 neighbor (Ex. 10-11). Mr. Lincoln stated the SEPA mitigation required the applicant to pay a pro-

1 rata share of the intersection improvement at Lake Washington Boulevard N. and Gene Coulon Park
2 entrance. He noted they were being double charged for these improvements because they are being
3 asked to pay both a proportionate share and the full traffic impact fee which includes the intersection
4 improvements. Mr. Lincoln requested the conditions of approval reflect a credit toward the
transportation impact fees to reflect the applicant's pro-rata costs for the Lake Washington
Boulevard N. at Gene Coulon park entrance intersection improvements.

5 With respect to parking, Mr. Lincoln stated the ITE standard for hotels is an average occupancy of
6 63% with a peak of 72% in June and July. At one space per room, they need about 75 spaces plus
7 spaces for staff parking (6 spaces). They need about 80-90 spaces during peak occupancy, rather
8 than the 105 proposed and 111 required. They are also planning on doing a shuttle service, but there
is not data available to estimate the impact of a shuttle service on parking need.

9 Mr. Lincoln talked about the transportation impact analysis (Ex. 8). He stated the analysis had
10 followed the City's guidelines with respect to intersection impact. The project will not increase
traffic impacts at any area intersections in excess of 5%.

11 Lauren Nestrud, the applicant's architect, discussed Staff condition #11. This item discussed
12 transparency of windows and a continuous canopy that mimicked the roof line. They have specific
13 design concerns about this condition because of structural concerns and creating a cohesive facade.
There are also significant water intrusion concerns. They want to work with the City and also
proposed to expand the canopies and increase the window glazing.

14 Ms. Timmons stated staff has no issue with the applicant's request. She proposed elimination of the
15 second sentence in the condition to allow the applicant's proposed revisions and to give flexibility
16 for the staff and applicant to work together. The applicant concurred.

17 Ms. Nestrud stated the applicant has resolved the parking issue with regard to the refuse and
18 recycling area (Ex. 20). There is no longer a conflict. They will expand the square footage of the
trash and recycling to meet the conditions of approval. They will meet the 105 parking spaces. Staff
19 concurred with the revision.

20 Scott Clark, the applicant's architect, stated the applicant has revised the storm drainage system to
21 include a new detention vault (Ex. 21). They have repurposed a storage area to accommodate a new
22 vault which will discharge at the lowest portion of the lot. No further improvements to the existing
public drainage system are anticipated.

23 In response to the examiner, Mr. Clark stated meeting the 111 required parking spaces would require
24 additional parking to be placed in the existing critical areas. This is both a sensitive area and the
most expensive area on site to build. The requested parking reduction is adequate for serving the
needs to the project while minimizing impacts to critical areas.

25 Mr. Ray Coglas, the applicant's geotechnical engineer, stated his role in the project began with an
26 initial site investigation (Ex. 7). There are steep slopes on the project. They analyzed the parking

1 versus the slope areas. They drilled deep borings and performed stability analysis to determine the
2 impact of construction on the slope areas. The property has been historically disturbed. It might have
3 been an old gravel pit. When the I-405 off ramp at Sunset was constructed, the steep slopes were
4 created. At one point the site was entirely cleared. The site is inherently stable. The post construction
stability will be safe, even with the small encroachment into the critical areas.

5 In response to the examiner, Mr. Coglas stated they identified groundwater and monitored the levels
6 to determine how that might interact with the building structure. The groundwater does have discreet
7 perched zones which might create shallow seeps. At depth, the groundwater table is about 2.5 to 3
8 feet above the bottom of the structure. The deposit is very compact and the porosity of the soil is
low. They will have to provide drainage under the slab post construction and deposit into the vault.
They feel they have been conservative. The slope will be stable post construction and groundwater
will be managed.

9 **Staff Rebuttal**

10 Ms. Timmons stated she had four outstanding items. With respect to parking, Ms. Timmons stated
11 staff presented this proposal, along with others to the City Council in late 2014. She wanted to relay
12 the Council's concerns with parking in the immediate vicinity and their desire to have 1:1 stalls per
13 room. There are major parking concerns in the area. Council wanted to see 105 spaces to go with
105 rooms. This is what the applicant proposed.

14 With respect to the traffic impact fee, Ms. Timmons stated the request for the fair share proportion
15 of the intersection improvements is a SEPA mitigation measure, not a condition of approval for this
16 project. She stated the fair share costs will be very small because there are very few trips from this
project.

17 Ms. Timmons discussed the public comment letter. She said many of the conditions in the
18 recommendation require the applicant to shore up their transportation analysis. In general, the
provided TIA is adequate.

19 The City feels the site will work from a geotechnical perspective. There will be additional review at
20 the engineering stage.

21 Mr. Steve Lee, the City's development engineering manager, spoke to the credit towards the
22 mitigation fee. He suggested there needs to be a rate study from the applicant. SECO is bearing the
23 full share of the intersection improvement and are interested in a Latecomers Agreement. The traffic
24 mitigation fees take into account the entire area, rather than just this specific intersection. The City
does not usually require both a regional transportation impact fee and local improvements. This is
why they made the SEPA mitigation measure to capture both.

25 The City will approve a discharge downstream of the vault for just the groundwater.

26 Ms. Timmons stated the impact fees ordinance allows no credits for construction improvements

1 toward impact fees. Though Southport had this arrangement in their development agreement, the
2 code has since changed. Ms. Timmons encouraged the examiner to read the specific ordinance. They
3 do not believe there is an opportunity for credit.

4 **Applicant Rebuttal**

5 Brad Lincoln, provided a response to the SEPA mitigation and a requested to apply credit for the
6 intersection improvements (SEPA Mitigation Measure #4) to the transportation impact fee (Ex. 22).
7 Even with all the pipeline developments, only Southport triggers the threshold for improvements at
8 the Lake Washington Boulevard N. at Gene Coulon entrance intersection. Under the code, there
9 would be no need for the present development to improve the intersection. They should not have to
10 pay for the intersection improvement but are required by the SEPA migration measure which cannot
11 be changed now since there was no appeal. Therefore, they are requesting a credit for the pro-rata
12 share toward their transportation impact fees so that they are not double charged. No other
13 development is being required to pay a pro-rate share of the intersection. This is an unfair impact
14 that is arbitrary.

11 **EXHIBITS**

12 The April 7, 2015 staff report Exhibits 1-15 identified at page 2 of the staff report itself were
13 admitted into the record during the hearing. The staff PowerPoint was admitted as Exhibit 19
14 during the hearing. The following additional exhibits were also admitted during the hearing:

15 Exhibit 20: Revised Parking Plan
16 Exhibit 21: Drainage Plan
17 Exhibit 22: Traffic Response to SEPA Mitigation Measures

17 **FINDINGS OF FACT**

18 **Procedural:**

- 19 1. Applicant. The applicant is Faizel Kassam of Legacy Renton.
- 20 2. Hearing. The Examiner held a hearing on the subject application on April 7, 2015 at 11:00
21 am in the City of Renton Council Chambers.
- 22 3. Project Description. The applicant is proposing to construct a 105 guest room hotel and
23 structured parking area. The subject property is located on the east side of Lake Washington Blvd N
24 just north of Houser Way N at 1300 Lake Washington Blvd N. The project site totals 55,000sf feet
25 in area and is located within the Urban Center North - 2 (UC-N2) zone and Design District 'C'. The
26 majority of the site is currently undeveloped. However, there is a paved espresso stand drive-thru
which exists on the site and is proposed for demolition. Access to the site would be via a single curb
cut from Lake Washington Boulevard N.

1 The total square footage of the proposed building is 108,800sf (including parking garage square
2 footage). The proposed hotel height is 5 stories above the front ground floor grade. A total of 105
3 parking stalls would be primarily provided in a two-level below grade parking garage with two stalls
4 provided at grade in a small surface parking area. The applicant is requesting a modification from
5 RMC 4-4-080 in order to reduce the number of required parking stalls from 111 to 105 stalls. Access
is proposed via Lake Washington Blvd N.

6 There are approximately 42 significant trees located on site. The applicant proposes to retain 34
7 trees. The site contains critical and sensitive slopes. Additionally, the site is located in an erosion
8 hazard area and a moderate landslide hazard area. The site is located within a High Erosion Hazard
9 area and an unclassified Landslide Hazard Area. Moderate and protected slopes, which exceed a
10 40% grade, are also located on site. The steep slopes occupy most of the northeast portion of the site.
The protected slopes make up an approximate 24,000sf area, representing 56% of the subject site.
The applicant is requesting a variance in order to encroach into critical slopes on site (4,185 square
feet).

11 Approximately 40,000cy of material would be cut on site and approximately 5,000cy of fill is
12 proposed to be brought into the site. Following construction, the impervious cover would be
13 approximately 44%.

14 The applicant is requesting a modification from RMC 4-6-060 in order to reduce the amount of
15 right-of-way dedication from 11.5 feet to 2.5 feet along Lake Washington Blvd N. Another variance
is requested in order to increase the maximum front yard setback from 5-feet to 22 feet and 9-inches.

16 The City's Environmental Review Committee issued s SEPA Determination of Non-Significant
17 Impact – Mitigated on March 16, 2015. The DNS-M included six mitigation measures. No appeals
18 of the threshold determination were filed.

19 The City received a public comment letter (Ex. 10), which commented on transportation impacts and
20 mitigation. The City's Staff Report recommended Conditions of Approval in the Staff Report (Ex.
18) attempt to address the issues raised in the comment letter.

21 4. Adequacy of Infrastructure/Public Services. The project will be served by adequate
22 infrastructure and public services as follows:

23 A. Water and Sewer Service. The site is served by the City of Renton for all water and sewer
24 service. There are existing water and sewer mains and partial storm drainage improvements in
25 Lake Washington Boulevard N. The water main is 12 inches. The sewer main is 8 inches and is
26 of sufficient size to support the proposed development. The system development fee for sewer
is based on the size of the new domestic water to serve the project. The preliminary fire flow
demand for the proposed development is 2,500 gpm.

1
2 B. Fire and Police. Police and Fire Prevention staff indicated that sufficient resources exist to
3 furnish services to the proposed development; if the applicant provides Code required
4 improvements and fees. A Fire Impact Fee, based on the new square footage of non-residential
5 area is required in order to mitigate the proposal's potential impacts to City emergency services.
The applicant would be required to pay an appropriate Fire Impact Fee.

6 C. Drainage. Storm drainage is adequately addressed by the proposal. The site is located within
7 the Lake Washington Drainage basin. Runoff from the site currently drains to the southwest of
8 the project site and then travels along Lake Washington Blvd N. before it eventually heads
9 north via roadside ditches and several culverts eventually discharging directly into Lake
Washington.

10 The applicant submitted a preliminary drainage plan and drainage report (Ex. 6) and a revised
11 drainage report (Ex. 21). Though the applicant had initially intended to utilize the City's
12 existing storm drainage system, the applicant has revised the drainage plan to route stormwater
into an on-site detention vault which eventually discharges into the City's drainage system.

13 D. Transportation. Traffic impacts are adequately mitigated by the proposal. Level of service
14 standards will not be reduced below adopted levels for the proposal and traffic impact fees will
15 be assessed to pay for proportionate share transportation system impacts.

16 The applicant submitted a Traffic Impact Analysis (Ex. 8) and a Traffic Response to SEPA
17 Mitigation Measures (Ex. 22) which addressed concerns expressed by the City's third party
18 reviewer and by staff in the Staff Report (Ex. 18).

19 Staff note there are several proposed developments in the project vicinity which together will
20 reduce the level of service (LOS) at the intersection of Lake Washington Boulevard North and
21 Houser Way at the entrance to Gene Coulon Park. The proposal itself will not significantly
22 reduce the intersection LOS. The intersection fails (LOS F) only under the circumstance
23 wherein the traffic from the Southport Development is included at conservatively high traffic
24 volumes. When more realistic projections from the Southport development are included in the
25 analysis, the LOS at this intersection is LOS E or better. The proposed development by itself is
26 not expected to impact the LOS at this intersection. No other nearby intersection service levels
will see an increase of more than 5% in PM peak hour volumes and therefore no further
analysis is required for other nearby intersections.

1 Despite the anticipated lack of project level impacts from this project on the Lake Washington
2 Boulevard North and Houser Way intersection, the City's Environmental Review Committee
3 imposed a SEPA mitigation measure requiring the applicant to pay a pro-rated share of the
4 traffic signal and roadway improvements costs for the intersection, which is currently being
5 constructed by SECO Development. The proposed project is required to pay its pro-rata share
6 based on the ratio of the number of trips added by the project to the number of future baseline
7 trips at the Southport/Gene Coulon Park Entrance/Lake Washington Boulevard N. intersection.
8 The applicant anticipates the proposed development will account for approximately 2.69% of
9 trips.

10 The applicant has requested a hearing examiner Condition of Approval that would reduce the
11 required traffic impact mitigation fees to remove the duplicate fees imposed by the SEPA
12 condition. The City testified that though this is exactly what they did for Southport, they are no
13 longer able to provide a traffic mitigation fee reduction to account for physical construction of
14 improvements or payment towards physical construction by a third party because they are
15 prohibited by the RMC from doing so. They note the relevant code was enacted after the
16 Southport Development Agreement. Contrary to the City's testimony, RMC 4-1-190(J)(1) does
17 in fact allow for credit towards impact fees based on the value of system improvements paid for
18 by the applicant provided the applicant receives administrative or Hearing Examiner approval
19 (RMC 4-1-190(L)).

20 E. Parking. The RMC requires a total of 111 parking spaces (one per guest room and one for every
21 three employees). The applicant and staff have agreed to a proposed parking modification to
22 allow for 105 parking spaces based on a revised parking plan (Ex. 20) and the ITE Manual's
23 occupancy rates projections. The ITE Manual anticipates average demand of approximately
24 57% of the required spaces based on average anticipated occupancy rates (Ex. 14). The 105
25 parking spaces represent a 5% reduction from the RMC required number of spaces.

26 F. Bicycle Stalls. Eleven bicycle stalls are required and proposed, however it is unclear if the
proposal provides fixed structures for locking individual bikes. The applicant will be required to
submit a bicycle parking detail during building permit approval.

G. Vehicular Access and Internal Circulation. The proposal provides for a single curb cut on Lake
Washington Boulevard N at the south end of the site. The location of the curb cut minimizes
conflict with adjacent uses by placing the entrance as far as physically possible from adjoining
uses. Parking will be accomplished almost entirely via an underground structured parking
garage with an entrance at the rear of the building, thus funneling on-site traffic in an orderly

1 manner. There is also a porte-cochere for guest drop off and pick up. Service elements are
2 located within the building (Ex. 20) to reduce conflicts with parking and pedestrian circulation.

3 H. Pedestrian Circulation. There are existing pedestrian and bicycle facilities in the subject vicinity
4 including bike lanes on both sides of Lake Washington Blvd N and existing contiguous
5 sidewalk to the north of the project (Exhibit 8). The applicant will construct sidewalks along the
6 site frontage connecting to the existing sidewalk system to the north. There is a lack of
7 pedestrian facilities between the site and the intersection of Lake Washington Blvd N at the
8 Gene Coulon Park entrance/Houser Way intersection. A SEPA mitigation measure was
9 requires the applicant to provide a surety device to provide pedestrian improvements between
10 the site and the Lake Washington Blvd at the Gene Coulon Park entrance /Houser Way. If,
11 within two years, the pedestrian connection is constructed as part of the development of the
12 abutting parcel to the south, the provided surety device will be released. If the pedestrian
13 connection is not constructed prior to the termination of the two year period, the funds will be
14 released to the City of Renton for the construction of the pedestrian connection.

15 I. Landscaping. The applicant submitted a proposed landscaping plan that substantially meets the
16 code requirements (Ex. 3). However, the plan did not specify the vegetation proposed for use in
17 planters in common areas and the proposed green screens separating patios on the upper floors.
18 More significantly, the plan did not include landscaping for the critical slope areas proposed for
19 clearing. Prior to engineering permit approval, the applicant will be required to submit a revised
20 landscaping plan depicting significant landscaping along the street frontage, within planters
21 adjacent to the building or within common open spaces, and roof patio screens. The landscape
22 plan will also include a planting plan for cleared areas which enhance slope stability.

23 J. Refuse Enclosure. The code requires a total of 201sf of recycle area and 402sf of refuse area
24 based on a total of 66,929sf of hotel space. The applicant has proposed only 338sf of the
25 required 603sf total refuse and recycling area. A condition of approval will require the applicant
26 either to comply with the code or request an administrative variance prior to building permit
approval. A conflict between the proposed refuse and recycling area and the parking area has
been resolved (Ex. 20).

K. Building Entries. The applicant has proposed to construct a pedestrian plaza along Lake
Washington Boulevard North. This will serve as a focal point for the development and create a
visually prominent entry. The main entrance of the building will be under a porte-cochere. Prior
to building permit approval, the applicant will provide a detailed common open space/plaza
plan detailing the proposed urban amenities (art, lighting, fixtures, landscaping).

- 1 L. Building Facades. As noted in the Staff Report (Ex. 18), the building largely complies with the
2 City's design standards for modulation, articulation, defined entrances and display windows.
3 The building is well modulated to give a less bulky appearance and to provide visual interest.
4 Staff expressed concern related to how the HVAC units will integrate into the window frames
5 and whether these will provide a monotonous appearance to the facade. Prior to building permit
6 approval, the applicant will be required to provide a more detailed window design plan.
- 7 M. Building Materials. Though the applicant has proposed the use of a variety of materials, the
8 elevations the applicant provided are too conceptual in nature. Prior to building permit
9 approval, the applicant will be required to provide a materials board for various elements of the
10 proposed facade and structures such as retaining walls for review and approval by the Current
11 Planning Project Manager.
- 12 N. Ground Level Details. As proposed, the entry to the building is not prominent and does not
13 meet the overall building design in the UC-N2 zone and design district. Some human scale
14 elements are provided, and as noted elsewhere, more detailed plans will be required for the
15 building entries and urban amenities. In addition to these features, the applicant will be required
16 to present more detailed elevations depicting added architectural detailing elements along the
17 ground floor and street facing facade.
- 18 O. Roof Lines. The proposed design for the building has morphed throughout the review process.
19 The most recent iteration depicts a flatter shed roof than previous designs. To provide a more
20 visually appealing roof line, the applicant will be required to submit building plans depicting a
21 higher pitched roof prior to building permit approval.
- 22 P. Recreation and Common Open Spaces. The building is over 30,000sf and therefore a pedestrian
23 oriented space is required. As noted above, the applicant proposes a plaza along the street
24 frontage. There will be a total of 3,700sf of passive and active open space on site which will
25 accommodate both hotel patrons and the public. Landscaping along the edge of the plaza will
26 soften the sidewalk and complement the entry plaza. As noted above, a more detailed plan for
the proposed urban amenities will be required prior to building permit approval.
- Q. Equipment Screening. Prior to building permit approval, the applicant will be required to
provide details for screening of surface and roof mounted equipment.
- R. Signage. Though the applicant provided a proposed sign package, the plan the applicant
provided is too conceptual in nature. Prior to building permit approval, the applicant will be

1 required to provide a signage package indicating the location of all exterior building signage
2 and which demonstrates compatibility with the building's architecture and exterior finishes.

3 S. Lighting. It appears through various elements of the submittal package that the applicant intends
4 to comply with the City's lighting standards. However, the applicant did not provide a specific
5 lighting plan. The applicant will be required to submit a lighting plan at the time of building
6 permit review.

7 5. Adverse Impacts. There are no significant adverse impacts associated with the project. Few
8 adverse impacts are anticipated. Adequate infrastructure serves the site as determined in Finding of
9 Fact No. 4. The SEPA MDNS mitigation measures in the Environmental Report (Ex. 1) are adopted
10 as Conditions of Approval. Adoption of Ex. 18 encompasses both the Findings of Fact and the
11 Conclusions of Law of Staff. All other adverse impacts discernible from the record are also fully
12 mitigated. Impacts are more specifically addressed as follows:

13 A. Reduced Frontage Setbacks. The UC-N2 zone has a maximum front yard setback of five feet.
14 The proposed building would have a 22 ft, 9 in front setback. The setback is necessary to
15 accommodate an existing 15 ft wide utility easement and to allow for a better, more functional
16 design for the pedestrian plaza. The proposal minimizes, to the extent possible, impacts to the
17 protected slopes on the northeastern portion of the site. The proposed building setback is also in
18 keeping with surrounding development patterns for building massing.

19 B. Right of Way Dedication. The existing right of way on Lake Washington Boulevard N. is 60
20 feet. The RMC (4-6-060) requires a right of way dedication to increase the right of way width to
21 83 feet. However, the City's actual plans for this location do not match the code requirements.
22 The City's Transportation Department has a specific corridor plan for Lake Washington
23 Boulevard N. that includes a minimum right of way width of 69 feet, rather than 83 feet. Instead
24 of the general code required dedication of 11.5 feet, the applicant has requested a 4.5 foot right
25 of way dedication to meet the more specific corridor plan. The City plans require only 17 feet
26 from the roadway centerline to match the existing curb on the north side of the subject site
while still providing for adequate sidewalk width and landscaping. Staff concurs with the
applicant's request and note that the reduced right of way dedication serves to reduce the impact
on critical area slopes by pushing the building as far forward as feasibly possible.

C. Reduced Critical Areas Setbacks. There are 24,000sf of critical slopes on the site. These were
created by WSDOT during the I-405 widening project. The applicant is proposing to encroach
into 4,185sf of the critical slopes. The applicant provided a geotechnical report (Ex. 7) which
demonstrated no signs of recent large scale erosion or slope stability issues as the subject site.
There were signs of steep to near vertical reliefs, all of which proved stable. Subsurface soils
demonstrate strength. The City does not anticipate any detriment to the public welfare or safety
provided the building's structural foundations are constructed according to the proposed plan.
The plan will likely result in increased safety at the site. As noted above in FOF 5A, the
proposed building is situated as far forward as possible while still failing to encroach on the

1 existing utility easement and provide for a functional pedestrian amenity. The proposed setback
2 is the minimum amount necessary to meet the objectives of the UC-N2 zone while protecting
3 the critical slopes. To ensure adequate safety, the applicant will be required to submit a revised
4 geotechnical report prior to engineering approval. The report will note proposed impacts to the
slopes and any changes to the recommendations to ensure safety, slope stability, and flow
control.

5 **Conclusions of Law**

6
7 1. Authority. Master Site Plan Approvals, Site Plan Review and Variances associated with
8 Hearing Examiner Review are each Type III decisions determined by the hearing examiner (RMC 4-
9 8-080(G)). The site plan, variance and modification applications of this proposal have been
10 consolidated. RMC 4-8-080(C)(2) requires consolidated permits to each be processed under “the
11 highest-number procedure”. The site plan and variance applications have the highest numbered
review procedures, so all three applications must be processed as Type III applications. As Type III
applications, RMC 4-8-080(G) grants the Examiner with the authority to hold a hearing and issue a
final decision on them, subject to closed record appeal to the City Council.

12
13 2. Zoning/Comprehensive Plan Designations. The property is zoned Urban Center North – 2
(UC-N2). The Comprehensive Plan designation is Urban Center North.

14
15 3. Review Criteria. Master Site Plan Review and Site Plan Review are required in the UC-N2
16 zone (RMC 4-9-200(B)(1) and RMC 4-9-200(B)(2)(a)). Master Site Plan and Site Plan Reviews are
17 governed by RMC 4-9-200(E)(3). Variance approval is governed by RMC 4-9-250(B)(5).
18 Modifications are governed by RMC 4-9-250(D)(2). The review of the appeal of the administrative
decision is governed by RMC 4-8-110(E)(12)(b). All applicable criteria are quoted below in italics
and applied through corresponding conclusions of law.

19 **Master Site Plan/Site Plan**

20 **RMC 4-9-200(E)(3): Criteria:** *The Administrator or designee must find a proposed project to be in*
21 *compliance with the following:*

22 **a. Compliance and Consistency:** *Conformance with plans, policies, regulations and approvals,*
including:

23 *i. Comprehensive Plan: The Comprehensive Plan, its elements, goals, objectives, and*
24 *policies, especially those of the applicable land use designation; the Community Design*
25 *Element; and any applicable adopted Neighborhood Plan;*

26 *ii. Applicable land use regulations;*

1 *iii. Relevant Planned Action Ordinance and Development Agreements; and*

2 *iv. Design Regulations: Intent and guidelines of the design regulations located in RMC 4-3-*
3 *100.*

4 4. The proposal is consistent with applicable comprehensive plan policies, City of Renton
5 zoning regulations and design guidelines as outlined in Findings 19, 20, and 25 of the staff report,
6 which is adopted by this reference as if set forth in full, including the findings and conclusions.

7 **RMC 4-9-200(E)(3)(b): Off-Site Impacts: Mitigation of impacts to surrounding properties and**
8 **uses, including:**

9 *i. Structures: Restricting overscale structures and overconcentration of development on a*
10 *particular portion of the site;*

11 *ii. Circulation: Providing desirable transitions and linkages between uses, streets, walkways*
12 *and adjacent properties;*

13 *iii. Loading and Storage Areas: Locating, designing and screening storage areas, utilities,*
14 *rooftop equipment, loading areas, and refuse and recyclables to minimize views from*
15 *surrounding properties;*

16 *iv. Views: Recognizing the public benefit and desirability of maintaining visual accessibility*
17 *to attractive natural features;*

18 *v. Landscaping: Using landscaping to provide transitions between development and*
19 *surrounding properties to reduce noise and glare, maintain privacy, and generally enhance*
20 *the appearance of the project; and*

21 *vi. Lighting: Designing and/or placing exterior lighting and glazing in order to avoid*
22 *excessive brightness or glare to adjacent properties and streets.*

23 5. As noted above in Finding of Fact No. 4(K-O), the building has been designed to reduce the
24 apparent bulk and provide visual interest through the use of varied materials and modification of the
25 facade. The building uses less of the site than would otherwise be required by code and places
26 parking in a structured garage underground. The building is placed to reduce the impact on on-site
critical slopes while providing for a pedestrian plaza and other urban amenities along the property's
frontage. As noted in Finding of Fact No. 4(G and H), the proposal involves a single curb cut on Lake
Washington Boulevard North while also providing frontage improvements to match the existing
curb line. The pedestrian plaza and porte-cochere will enhance the pedestrian experience. As noted
in Finding of Fact No. 4(J and Q), loading and storage areas, refuse collection and roof equipment
will be screened and will not interfere with pedestrian circulation or parking. There are not
significant views from this property. As noted in Finding of Fact No. 4(I), landscaping will be

1 provided on the critical slopes, around the building, in the pedestrian plaza and on the frontage. As
2 noted in Finding of Fact No. 5(S), lighting will be designed to avoid glare on to adjacent properties
3 or streets while providing safe illumination for site users.

4 **RMC 4-9-200(E)(3)(c): On-Site Impacts: Mitigation of impacts to the site, including:**

5 *i. Structure Placement: Provisions for privacy and noise reduction by building placement,*
6 *spacing and orientation;*

7 *ii. Structure Scale: Consideration of the scale of proposed structures in relation to natural*
8 *characteristics, views and vistas, site amenities, sunlight, prevailing winds, and pedestrian*
9 *and vehicle needs;*

10 *iii. Natural Features: Protection of the natural landscape by retaining existing vegetation*
11 *and soils, using topography to reduce undue cutting and filling, and limiting impervious*
12 *surfaces; and*

13 *iv. Landscaping: Use of landscaping to soften the appearance of parking areas, to provide*
14 *shade and privacy where needed, to define and enhance open spaces, and generally to*
15 *enhance the appearance of the project. Landscaping also includes the design and protection*
16 *of planting areas so that they are less susceptible to damage from vehicles or pedestrian*
17 *movements.*

18 6. As noted in the Staff Report (Ex. 18), the entrance to the proposed hotel is located as far away
19 as feasible from existing residential uses. The building also steps back from the north property line
20 to provide a transition to the live/work area to the north. The building setback and orientation will
21 provide privacy to guests and existing residents. Once operational, no noise impacts are anticipated.
22 The proposed building is smaller in scale than what is allowable under the code and is designed to
23 reduce the visual bulk of the building through varied materials and facade modulation. The
24 pedestrian plaza will be visually appealing from the property's frontage. The proposal does impact
25 the on-site steep slopes, but the impact is the least feasible to allow development of the site.
26 Adequate landscaping in the pedestrian plaza and frontage is proposed. Parking will be structured.

21 **RMC 4-9-200(E)(3)(d): Access and Circulation: Safe and efficient access and circulation for all**
22 *users, including:*

23 *i. Location and Consolidation: Providing access points on side streets or frontage streets*
24 *rather than directly onto arterial streets and consolidation of ingress and egress points on the*
25 *site and, when feasible, with adjacent properties;*

1 **ii. Internal Circulation:** Promoting safety and efficiency of the internal circulation system,
2 including the location, design and dimensions of vehicular and pedestrian access points,
3 drives, parking, turnarounds, walkways, bikeways, and emergency access ways;

4 **iii. Loading and Delivery:** Separating loading and delivery areas from parking and
5 pedestrian areas;

6 **iv. Transit and Bicycles:** Providing transit, carpools and bicycle facilities and access; and

7 **v. Pedestrians:** Providing safe and attractive pedestrian connections between parking areas,
8 buildings, public sidewalks and adjacent properties.

9 7. The proposal provides for adequate access and circulation as required by the criterion above
10 for the reasons identified in Finding of Fact No. 4(E-H).

11 **RMC 4-9-200(E)(3)(e): Open Space:** Incorporating open spaces to serve as distinctive project
12 focal points and to provide adequate areas for passive and active recreation by the occupants/users
13 of the site.

14 8. The proposal provides for common open space that serves as a distinctive project focal point
15 and also provides for passive recreation as determined in Finding of Fact No. 4(N and P). A primary
16 feature of the proposal is a pedestrian plaza.

17 **RMC 4-9-200(E)(3)(f): Views and Public Access:** When possible, providing view corridors to
18 shorelines and Mt. Rainier, and incorporating public access to shorelines.

19 9. There are no view corridors to shorelines or Mt. Rainier affected by the proposal.

20 **RMC 4-9-200(E)(3)(g): Natural Systems:** Arranging project elements to protect existing natural
21 systems where applicable.

22 10. As noted in Finding of Fact No. 5(C), the proposal impacts critical slopes, though the impact
23 is the minimum necessary to allow feasible development of the site. As conditioned, the project
24 provides for adequate public safety and welfare. As determined in Finding of Fact No. 4, the
25 drainage system has been designed as a vault system which will allow the project to discharge into
26 natural drainage courses via the City's existing storm drainage system.

RMC 4-9-200(E)(3)(h): Services and Infrastructure: Making available public services and
facilities to accommodate the proposed use.

 11. The project is served by adequate services and facilities as determined in Finding of Fact No.
4(A and B).

1 **RMC 4-9-200(E)(3)(i): *Phasing:* Including a detailed sequencing plan with development phases**
2 **and estimated time frames, for phased projects.**

3 12. The project is not phased.

4 **Urban Design Regulations**

5 **RMC 4-3-100(E)(1)(1) Building Location and Orientation:**

- 6 1. *The availability of natural light (both direct and reflected) and direct sun exposure to*
7 *nearby buildings and open space (except parking areas) shall be considered when siting*
8 *structures.*
- 9 2. *Buildings shall be oriented to the street with clear connections to the sidewalk.*
- 10 3. *The front entry of a building shall be oriented to the street or a landscaped pedestrian-*
11 *only courtyard.*
- 12 4. *Buildings with residential uses located at the street level shall be set back from the*
13 *sidewalk a minimum of ten feet (10') and feature substantial landscaping between the*
14 *sidewalk and the building or have the ground floor residential uses raised above street*
15 *level for residents privacy.*

16 13. The proposed structure is located in the only location on the site that is feasible for
17 development given the constraints of the critical areas and existing utility easement. The building
18 will feature a pedestrian plaza accessible from the frontage sidewalk and a porte-cochere with
19 pedestrian amenities. As conditioned, this criterion is satisfied.

20 **RMC 4-3-100(E)(1)(2) Building Entries:**

- 21 1. *A primary entrance of each building shall be:*
 - 22 a. *located on the facade facing a street, shall be prominent, visible from the street,*
23 *connected by a walkway to the public sidewalk, and include human-scale elements.*
 - 24 b. *made visibly prominent by incorporating architectural features such as a facade*
25 *overhang, trellis, large entry doors, and/or ornamental lighting.*
- 26 2. *Building entries from a street shall be clearly marked with canopies, architectural*
elements, ornamental lighting, or landscaping and include weather protection at least
four and one-half feet wide. Buildings that are taller than thirty feet (30') in height shall
also ensure that the weather protection is proportional to the distance above ground level.
4. *Features such as entries, lobbies, and display windows shall be oriented to a street or*
pedestrian-oriented space; otherwise, screening or decorative features should be
incorporated.

1 14. As noted in Finding of Fact No. 4(K), the building's primary entrance is proposed to be
2 located along the site's only road frontage. The primary entrance will be a porte-cochere adjacent to
3 a pedestrian plaza with landscaping and urban amenities. The applicant has stated that canopies,
4 architectural elements and ornamental lighting will be employed at the entrances to clearly identify
5 them as the primary pedestrian entry points into the building. The applicant has proposed a variety
of materials to enhance the ground level effect. As noted in FOF No. 4(K-M), as conditioned, these
criteria are satisfied.

6 **RMC 4-3-100(E)(1)(3) Transition to Surrounding Development:**

7 1. *At least one of the following design elements shall be considered to promote a transition to*
8 *surrounding uses:*

9 *(a) Building proportions, including step-backs on upper levels;*

10 *(b) Building articulation to divide a larger architectural element into smaller increments; or*

11 *(c) Roof lines, roof pitches, and roof shapes designed to reduce apparent bulk and transition*
12 *with existing development.*

13 *Additionally, the Administrator of the Department of Community and Economic Development or*
14 *designee may require increased setbacks at the side or rear of a building in order to reduce the bulk*
15 *and scale of larger buildings and/or so that sunlight reaches adjacent and/or abutting yards.*

16 15. As conditioned and described in Findings of Fact No. 4(L and O), this criterion is satisfied.

17 **RMC 4-3-100(E)(1)(4) Service Element Location and Design:**

18 1. *Service elements shall be located and designed to minimize the impacts on the pedestrian*
19 *environment and adjacent uses. Service elements shall be concentrated and located where*
20 *they are accessible to service vehicles and convenient for tenant use.*

21 16. As noted in Findings of Fact No. 4(J), the proposed refuse and recycle deposit areas are
22 located within the proposed structure and will not impact parking. No impacts to the pedestrian
23 environment or adjacent uses are anticipated.

24 **RMC 4-3-100(E)(2)(2) Structured Parking Garages:**

25 1. *Parking structures shall provide space for ground floor commercial uses along street*
26 *frontages at a minimum of seventy five percent (75%) of the building frontage width.*

17. This criterion is satisfied as the entire use is commercial in nature.

1 **RMC 4-3-100(E)(2)(3) Vehicular Access:**

- 2 1. *Access to parking lots and garages shall be from alleys, when available. If not available,*
3 *access shall occur at side streets.*
- 4 2. *The number of driveways and curb cuts shall be minimized, so that pedestrian circulation*
5 *along the sidewalk is minimally impeded.*

6 18. As noted in Finding of Fact No. 3 and 4(G), all access is from a single curb cut. This criterion
7 is satisfied.

8 **RMC 4-3-100(E)(3)(1) Pedestrian Circulation:**

- 9 1. *A pedestrian circulation system of pathways that are clearly delineated and connect*
10 *buildings, open space, and parking areas with the sidewalk system and abutting properties*
11 *shall be provided.*
- 12 a. *Pathways shall be located so that there are clear sight lines, to increase safety.*
- 13 b. *Pathways shall be an all-weather or permeable walking surface, unless the applicant can*
14 *demonstrate that the proposed surface is appropriate for the anticipated number of users*
15 *and complementary to the design of the development.*

16 19. As noted above in Finding of Fact No. 4(H), pedestrian circulation to and throughout the site
17 will be enhanced by the pedestrian plaza, porte-cochere and the placement of parking in a structured
18 underground garage. As conditioned, this criterion is satisfied.

19 **RMC 4-3-100(E)(3)(3) Pedestrian Circulation:**

- 20 1. *Sidewalks and pathways along the facades of buildings shall be of sufficient width to*
21 *accommodate anticipated numbers of users. Specifically:*
- 22 a. *Sidewalks and pathways along the facades of mixed use and retail buildings one hundred*
23 *(100) or more feet in width (measured along the facade) shall provide sidewalks at least*
24 *twelve feet (12') in width. The pathway shall include an eight-foot (8') minimum*
25 *unobstructed walking surface.*
- 26 b. *Interior pathways shall be provided and shall vary in width to establish a hierarchy. The*
widths shall be based on the intended number of users; to be no smaller than five feet (5')
and no greater than twelve feet (12').

20. The proposed hotel use is neither mixed use nor retail in nature. As proposed, this criterion is
met.

1 **RMC 4-3-100(E)(4) Recreation Areas and Common Open Space:**

2 2. *All buildings and developments with over thirty thousand (30,000) square feet of*
3 *nonresidential uses (excludes parking garage floorplate areas) shall provide pedestrian-*
4 *oriented space.*

5 a. *The pedestrian-oriented space shall be provided according to the following formula:*
6 *1% of the site area + 1% of the gross building area, at minimum.*

7 b. *The pedestrian-oriented space shall include all of the following:*

8 i. *Visual and pedestrian access (including barrier-free access) to the abutting*
9 *structures from the public right-of-way or a nonvehicular courtyard; and*

10 ii. *Paved walking surfaces of either concrete or approved unit paving; and*

11 iii. *On-site or building-mounted lighting providing at least four (4) foot-candles*
12 *(average) on the ground; and*

13 iv. *At least three (3) lineal feet of seating area (bench, ledge, etc.) or one*
14 *individual seat per sixty (60) square feet of plaza area or open space.*

15 c. *The following areas shall not count as pedestrian-oriented space.*

16 i. *The minimum required walkway. However, where walkways are widened or*
17 *enhanced beyond minimum requirements, the area may count as pedestrian-*
18 *oriented space if the Administrator determines such space meets the definition*
19 *of pedestrian-oriented space.*

20 21. As noted in Finding of Fact No. 3 and 4(H, N and P) above, the applicant is proposing a
21 pedestrian plaza adjacent to the project frontage and accessible from the street. The plaza meets the
22 size, access and materials requirements. Other urban amenities are proposed. As conditioned, these
23 criteria are satisfied.

24 **RMC 4-3-100(E)(5)(1) Building Character and Massing:**

25 1. *All building facades shall include modulation or articulation at intervals of no more than*
26 *forty feet (40').*

2. *Modulations shall be a minimum of two feet (2') deep, sixteen feet (16') in height, and eight*
3. *feet (8') in width.*

4. *Buildings greater than one hundred sixty feet (160') in length shall provide a variety of*
5. *modulations and articulations to reduce the apparent bulk and scale of the facade; or provide*
6. *an additional special feature such as a clock tower, courtyard, fountain, or public gathering*
7. *area.*

22. As noted in Finding of Fact 4(L), and as proposed and conditioned, these criteria are satisfied.

RMC 4-3-100(E)(5)(2) Ground-Level Details:

1. *Human-scaled elements such as a lighting fixture, trellis, or other landscape feature shall be provided along the facade's ground floor.*
2. *On any facade visible to the public, transparent windows and/or doors are required to comprise at least 50 percent of the portion of the ground floor facade that is between 4 feet and 8 feet above ground (as measured on the true elevation).*
3. *Upper portions of building facades shall have clear windows with visibility into and out of the building. However, screening may be applied to provide shade and energy efficiency. The minimum amount of light transmittance for windows shall be 50 percent.*
4. *Display windows shall be designed for frequent change of merchandise, rather than permanent displays.*
5. *Where windows or storefronts occur, they must principally contain clear glazing.*
6. *Tinted and dark glass, highly reflective (mirror-type) glass and film are prohibited.*

23. As noted in Finding of Fact No. 4(M, N, P, R and S) above, human-scaled elements such as lighting fixtures or other landscape features are proposed. However, the elements are not apparent on the provided elevations (Exhibit 4). Additional human scale elements are needed in order to reinforce a pedestrian oriented development and enhance the commercial portion of the project at the street front. Conditions of approval require the applicant to submit revised elevations addressing window HVAC units, lighting, signage, urban amenities and building materials.

RMC 4-3-100(E)(5)(3) Building Roof Lines: *Buildings shall use at least one of the following elements to create varied and interesting roof profiles:*

- a. *Extended parapets;*
- b. *Feature elements projecting above parapets;*
- c. *Projected cornices;*
- d. *Pitched or sloped roofs*
- e. *Buildings containing predominantly residential uses shall have pitched roofs with a minimum slope of one to four (1:4) and shall have dormers or interesting roof forms that break up the massiveness of an uninterrupted sloping roof.*

1 24. The applicant has proposed a shed style roof. As noted in Finding of Fact 4(O) above, the
2 applicant will be required to provide a roofline with a greater pitch. As conditioned, this criterion is
3 satisfied.

4 **RMC 4-3-100(E)(5)(4) Building Materials:**

- 5 *1. All sides of buildings visible from a street, pathway, parking area, or open space shall be*
6 *finished on all sides with the same building materials, detailing, and color scheme, or if*
7 *different, with materials of the same quality.*
8 *2. All buildings shall use material variations such as colors, brick or metal banding, patterns or*
9 *textural changes.*
10 *3. Materials shall be durable, high quality, and consistent with more traditional urban*
11 *development, such as brick, integrally colored concrete masonry, pre-finished metal, stone,*
12 *steel, glass and cast-in-place concrete.*

13 25. The applicant has proposed a building exterior with varied colors, textures, and profiles.
14 However, the applicant did not provide sufficient detail to allow the City to envision the final look
15 of the structure. The applicant will be required to provide a materials board for City review as noted
16 above in Finding of Fact No. 4(M).

17 Acceptable materials include a combination of brick, integrally colored concrete masonry, pre-
18 finished metal, stone, steel, glass, cast-in-place concrete, or other high quality material. Full brick-
19 sized material should be encouraged for at least the street level façade to ensure durable materials
20 are applied in high traffic pedestrian locations. Any non-brick masonry finishes proposed at the
21 ground level that may be accessible to humans should be anti-graffiti coating applied to ensure easy
22 removal of graffiti. If this condition of approval is met, the proposal would satisfy this standard.

23 **RMC 4-3-100(E)(6) Signage:**

- 24 *1. Entry signs shall be limited to the name of the larger development.*
25 *2. Corporate logos and signs shall be sized appropriately for their location.*
26 *3. In mixed use and multi-use buildings, signage shall be coordinated with the overall building*
design.
4. Freestanding ground-related monument signs, with the exception of primary entry signs, shall
be limited to five feet (5') above finished grade, including support structure.
5. Freestanding signs shall include decorative landscaping (ground cover and/or shrubs) to
provide seasonal interest in the area surrounding the sign. Alternately, signage may
incorporate stone, brick, or other decorative materials as approved by the Director.
6. All of the following are prohibited:

1 a. Pole signs;

2 b. Roof signs; and

3 c. Back-lit signs with letters or graphics on a plastic sheet (can signs or illuminated cabinet
4 signs). Exceptions: Back-lit logo signs less than ten (10) square feet are permitted as area
5 signs with only the individual letters back-lit (see illustration, subsection G8 of this
6 Section).

7 26. Signage has not yet been fully designed for the proposed project. As described in Finding of
8 Fact No. 4(R) and as a condition of approval, the applicant is required to submit a comprehensive
9 signage package. Locations and supports are required to be compatible with the building's
10 architecture and exterior finishes. The signage package shall be submitted to and approved by the
11 Current Planning Manager prior to sign permit approval. As conditioned, this criterion is met.

12 **RMC 4-3-100(E)(7) Lighting:**

13 1. Pedestrian-scale lighting shall be provided at primary and secondary building entrances.
14 Examples include sconces on building facades, awnings with down-lighting and decorative
15 street lighting.

16 3. Accent lighting shall also be provided on building facades (such as sconces) and/or to
17 illuminate other key elements of the site such as gateways, specimen trees, other significant
18 landscaping, water features, and/or artwork.

19 4. Downlighting shall be used in all cases to assure safe pedestrian and vehicular movement,
20 unless alternative pedestrian scale lighting has been approved administratively or is
21 specifically listed as exempt from provisions located in RMC 4-4-075, Lighting, Exterior On-
22 Site (i.e., signage, governmental flags, temporary holiday or decorative lighting, right-of-
23 way-lighting, etc.).

24 27. As noted in Findings of Fact No. 4(S), building lighting will be utilized to complement the
25 architecture of the building. However, a lighting plan was not provided with the application. A
26 condition of approval requires the Applicant to provide a lighting plan which complies with the
Design District standards. The plan shall indicate the location of exterior/ornamental lighting to be
attached to the building, including specifications and photo samples of the light fixtures. The
lighting plan shall be submitted to, and approved by, the Current Planning Project Manager prior to
building permit approval. If this condition of approval is met, the proposal would satisfy this
standard.

Setback Variance

RMC 4-9-250(B)(5)(a): That the applicant suffers practical difficulties and unnecessary hardship
and the variance is necessary because of special circumstances applicable to subject property,
including size, shape, topography, location or surroundings of the subject property, and the strict

1 application of the Zoning Code is found to deprive subject property owner of rights and privileges
2 enjoyed by other property owners in the vicinity and under identical zone classification;

3 28. As noted above in Finding of Fact No. 5(A), the maximum front setback in the UC-N2 zone is
4 five feet. The proposed building would have a 22 ft, 9 in front setback. A five foot setback is
5 impossible in the subject's case because of an existing 15 ft electrical utility easement. The proposal
6 minimizes, to the extent possible, impacts to the protected slopes on the northeastern portion of the
7 site by pushing the building as far forward as possible and placing parking in an underground
8 structure. The proposed building setback is also in keeping with surrounding development patterns
9 for building massing. The criterion is met due to both the critical areas in the rear of the property and
10 the existing easement along the frontage.

11 **RMC 4-9-250(B)(5)(b):** *That the granting of the variance will not be materially detrimental to the*
12 *public welfare or injurious to the property or improvements in the vicinity and zone in which subject*
13 *property is situated;*

14 29. As noted above in Conclusion of Law No. 28, the proposed setback is similar to other
15 buildings and sites within the subject's vicinity. The greater setback also facilitates placement of a
16 pedestrian plaza along the subject's frontage, an urban amenity. The public welfare will be improved
17 by construction of the new plaza as facilitated by the increased setback. As determined in Finding of
18 Fact No. 5, no significant adverse impacts will be created by the proposal. In the absence of any
19 significant impacts and the likely improvement in public welfare, the impacts of the variance will
20 not be materially detrimental to the public welfare or injurious to property or improvements in the
21 vicinity and zone.

22 **RMC 4-9-250(B)(5)(c):** *That approval shall not constitute a grant of special privilege inconsistent*
23 *with the limitation upon uses of other properties in the vicinity and zone in which the subject*
24 *property is situated;*

25 30. Many of the buildings adjacent to the subject have similar setbacks due to the utility
26 easement. There is no special privilege.

RMC 4-9-250(B)(5)(d): *That the approval as determined by the Reviewing Official is a minimum*
variance that will accomplish the desired purpose.

31. The requested variance is the minimum necessary while still allowing the construction of the
public plaza.

Critical Areas Variance

RMC 4-9-250(B)(5)(a): *That the applicant suffers practical difficulties and unnecessary hardship*
and the variance is necessary because of special circumstances applicable to subject property,
including size, shape, topography, location or surroundings of the subject property, and the strict
application of the Zoning Code is found to deprive subject property owner of rights and privileges
enjoyed by other property owners in the vicinity and under identical zone classification;

1
2 32. The steep slopes on the subject property were created by WSDOT during the I-405
3 construction. The applicant has minimized to the greatest extent feasible the impact to the slopes by
4 placing the building as far to the front of the site as possible and providing underground structured
5 parking. The impact to the slopes is the minimum necessary to allow for feasible development of the
6 subject site. The criterion is met as determined in Finding of Fact No. 5(C).

7 **RMC 4-9-250(B)(5)(b):** *That the granting of the variance will not be materially detrimental to the
8 public welfare or injurious to the property or improvements in the vicinity and zone in which subject
9 property is situated;*

10 33. As determined in Finding of Fact No. 5(C), no significant adverse impacts will be created by
11 the proposal. The applicant's geotechnical engineer has adequately demonstrated the slopes are
12 stable and will remain so post-construction. As conditioned, the slope impact will not result in any
13 adverse impacts to the public health or safety. In the absence of any significant impacts, the impacts
14 of the variance will not be materially detrimental to the public welfare or injurious to property or
15 improvements in the vicinity and zone.

16 **RMC 4-9-250(B)(5)(c):** *That approval shall not constitute a grant of special privilege inconsistent
17 with the limitation upon uses of other properties in the vicinity and zone in which the subject
18 property is situated;*

19 34. There is no special privilege.

20 **RMC 4-9-250(B)(5)(d):** *That the approval as determined by the Reviewing Official is a minimum
21 variance that will accomplish the desired purpose.*

22 35. The requested variance is the minimum necessary to allow development of the project site as
23 contemplated in the UC-N2 zone.

24 **Street Modification**

25 **RMC 4-9-250(D)(2):** *Whenever there are practical difficulties involved in carrying out the
26 provisions of this Title, the Department Administrator may grant modifications for individual cases
provided he/she shall first find that a specific reason makes the strict letter of this Code impractical,
that the intent and purpose of the governing land use designation of the Comprehensive Plan is met
and that the modification is in conformity with the intent and purpose of this Code, and that such
modification:*

*a. Substantially implements the policy direction of the policies and objectives of the
Comprehensive Plan Land Use Element and the Community Design Element and the
proposed modification is the minimum adjustment necessary to implement these policies and
objectives;*

- b. Will meet the objectives and safety, function, appearance, environmental protection and maintainability intended by the Code requirements, based upon sound engineering judgment;*
- c. Will not be injurious to other property(ies) in the vicinity;*
- d. Conforms to the intent and purpose of the Code;*
- e. Can be shown to be justified and required for the use and situation intended; and*
- f. Will not create adverse impacts to other property(ies) in the vicinity.*

36. The criterion above are met for the requested modification to RMC 4-6-060 for the reasons identified in Finding of Fact No. 5(B). The City's corridor plan for this location requires less right of way dedication than that required by strict application of the code. The City can create adequate right of way, sidewalks, landscaping and curbs with the reduced right of way dedication. No adverse impacts are anticipated from the proposed modification.

Parking Modification

RMC 4-9-250(D)(2): *Whenever there are practical difficulties involved in carrying out the provisions of this Title, the Department Administrator may grant modifications for individual cases provided he/she shall first find that a specific reason makes the strict letter of this Code impractical, that the intent and purpose of the governing land use designation of the Comprehensive Plan is met and that the modification is in conformity with the intent and purpose of this Code, and that such modification:*

- a. Substantially implements the policy direction of the policies and objectives of the Comprehensive Plan Land Use Element and the Community Design Element and the proposed modification is the minimum adjustment necessary to implement these policies and objectives;*
- b. Will meet the objectives and safety, function, appearance, environmental protection and maintainability intended by the Code requirements, based upon sound engineering judgment;*
- c. Will not be injurious to other property(ies) in the vicinity;*
- d. Conforms to the intent and purpose of the Code;*
- e. Can be shown to be justified and required for the use and situation intended; and*
- f. Will not create adverse impacts to other property(ies) in the vicinity.*

37. The criterion above are met for the requested modification to RMC 4-6-060 for the reasons identified in Finding of Fact No. 4(E). Though the RMC requires 111 parking spaces, the applicant has reasonably proved that 105 spaces are more than adequate to meet expected demand. Both the applicant and the City testified to the adequacy of the reduced number of spaces. Though there is a regional parking shortage, the reduced number of spaces is not anticipated to create adverse impacts to other properties in the vicinity as the proposed parking will more than meet the demand created by the project.

Impact Fee Reduction

RMC 4-1-190(G)(1): *The City shall collect impact fees, based on the rates in the City's fee schedule, from any applicant seeking development approval from the City for any development activity within the City, when such development activity requires the issuance of a building permit or a permit for a change in use, and creates a demand for additional public facilities.*

RMC 4-1-190(J)(1): *A feepayer may request that a credit or credits for impact fees be awarded to him/her for the total value of system improvements, including dedications of land and improvements, and/or construction provided by the feepayer. Credits will be given only if the land, improvements, and/or the facility constructed are:*

- a. Included within the capital facilities plan or would serve the goals and objectives of the capital facilities plan;*
- b. Determined by the City to be at suitable sites and constructed at acceptable quality;*
- c. Serve to offset impacts of the feepayer's development activity; and*
- d. Are for one (1) or more of the projects listed in the Rate Study as the basis for calculating the transportation impact fee.*

RMC 4-1-190(L):

1. The Administrator's determinations with respect to the applicability of the impact fees to a given development activity, the availability or value of a credit, the Administrator's decision concerning the independent fee calculation which is authorized in subsection H of this Section, as it exists or may be amended, or any other Administrator's determination pursuant to this Section may be appealed by the feepayer to the provisions of RMC 4-8-110E, as it exists or may be amended. No building or change of use permits will be issued until the impact fee is paid or the signed and notarized deferred impact fee application and acknowledgement form and deferral fee have been received and accepted by the City; provided, however, that the feepayer may pay the fee under protest pending appeal to avoid delays in the issuance of building permits or change of use permits.

2. Appeals to the Hearing Examiner shall be taken in accord with the processes set forth in RMC 4-8-110E, as it exists or may be amended.

3. The Hearing Examiner is authorized to make findings of fact regarding the applicability of the impact fees to a given development activity, the availability or amount of the credit, or the accuracy or applicability of an independent fee calculation. There is a presumption of validity

1 of the Administrator's determination. The feepayer has the burden of proof during any appeal
2 of the Administrator's determination or decision.

3
4 4. The Hearing Examiner may, so long as such action is in conformance with the provisions of
5 this Section, reverse, affirm, modify or remand, in whole or in part, the Administrator's
6 determinations with respect to the amount of the impact fees imposed or the credit awarded.

7 **RMC 4-8-110(E)(12)(b):** Hearing Examiner Decision Options and Decision Criteria: The
8 Hearing Examiner may affirm the decision or remand the case for further proceedings, or it
9 may reverse the decision if the substantial rights of the applicant may have been prejudiced
because the decision is:

- 10 i. In violation of constitutional provisions; or
- 11 ii. In excess of the authority or jurisdiction of the agency; or
- 12 iii. Made upon unlawful procedure; or
- 13 iv. Affected by other error of law; or
- 14 v. Clearly erroneous in view of the entire record as submitted; or
- 15 vi. Arbitrary or capricious.

16 38. The applicant has requested a credit towards their transportation impact fees (Ex. 22)
17 resulting from the SEPA mitigation condition requiring them to pay a pro-rata share of the
18 intersection improvements at Lake Washington Boulevard North and the entrance to Gene
19 Coulon Park (Ex. 1, SEPA Mitigation Condition #4). RMC 4-1-190(J)(1) allows credits to be
20 given if the project is included within or would serve the goals of the capital facilities plan, is
included in the Rate Study, is at a suitable location, and serves to offset the impacts of the
feepayer's development activity.

21 At the hearing the City staff testified they could not offer the applicant credit as was done with
22 Southport because the ordinance that previously allowed the credit had changed. Staff argued
23 the new ordinance specifically prohibited allowing credit for improvements to go towards
24 transportation impact fees. Staff asked the examiner to review the ordinance. RMC 4-1-190 was
last amended by Ord. 5670 on October 8, 2012. The examiner could find no more recent
ordinances which amended the impact fees.

25
26 RMC 4-1-190(L)(1) allows decisions by the administrator with respect to the applicability of
the impact fees to a given development activity or the availability or value of a credit to be

1 appealed to the examiner. The applicant presented their appeal to apply credit for the SEPA
2 mitigation measure's intersection improvements to the transportation mitigation fee at the
3 hearing as Ex. 22. Staff testified the credit could not be given because they erroneously believed
4 they were specifically prohibited by code from doing so. However, no formal administrative
5 decision has yet been given regarding the proposed transportation impact fee reduction. As no
6 formal administrative decision on the matter has been issued, the examiner does not yet have
7 jurisdiction to consider an appeal on the matter.

8 **DECISION**

9 The Master Site Plan Review, Site Plan Review, Parking Modification, Street Modification,
10 Setback Variance, Critical Area Variance are approved subject to the following conditions.

- 11 1. The applicant shall comply with the six mitigation measures issued as part of the
12 Determination of Non-Significance Mitigated, dated March 16, 2015.
- 13 2. The applicant shall submit a detailed landscape plan depicting significant landscaping
14 along the street frontage, within planters adjacent to the building or within common open
15 spaces, and roof patio screens. The landscape plan shall also include a planting plan for
16 cleared areas which enhance slope stability. The landscaping plan shall be submitted to,
17 and approved by, the Current Planning Project Manager prior to engineering permit
18 approval.
- 19 3. The applicant shall provide a detailed plan identifying the location and screening
20 provided for surface and roof mounted equipment. The screening plan shall be submitted
21 to, and approved by, the Current Planning Project Manager prior to building permit
22 approval.
- 23 4. The proposal shall be revised to include an additional 285 square feet of area dedicated to
24 refuse and recyclables. Alternatively, the applicant may request an Administrative
25 modification, pursuant to RMC 4-9-250, in order to reduce the square footage required.
26 The revised floor plan or Administrative Modification request shall be submitted to, and
approved by, the Current Planning Project Manager prior to building permit approval.
5. The applicant shall be required to demonstrate there is adequate area for refuse pickup
within the parking structure which may require the relocation of a parking stall(s). The
revised floorplan shall be submitted to, and approved by, the Current Planning Project
Manager prior to building permit approval.
6. The applicant shall be required to revise the parking plan to include a total of 105 stalls
and the following: relocation of proposed stalls which would preclude refuse and recycle
pickup; the provision of adequate ADA accessible parking stalls; and the replacement of
tandem parking spaces with direct access stalls. The revised parking plan shall be
submitted to, and approved by, the Current Planning Project Manager prior to building
permit approval.

- 1 7. The applicant shall submit a revised site plan depicting a 4.5 foot (subject to a final
2 survey) right-of-way dedication along Lake Washington Blvd N. The revised site plan
3 shall be submitted to, and approved by, the Plan Reviewer prior to construction permit
4 approval.
- 5 8. A revised Geotechnical report shall be submitted prior to engineering permit approval
6 noting proposed impacts to steep slopes and any changes in recommendations
7 accordingly. The geotech report would also be required to include information regarding
8 the stability for soil infiltration, with recommendations of appropriate flow control BMP
9 options. If infiltration is proposed, then falling head permeability rates are required to be
10 provided.
- 11 9. The applicant shall submit a detailed common open space/plaza plan which includes
12 specifications for pedestrian amenities that add to the pedestrian experience and the
13 human scale intended for the development. The plan shall be submitted to, and approved
14 by, the Current Planning Project Manager prior to building permit approval.
- 15 10. The applicant shall submit a revised elevation depicting some recess depth for each
16 window, in which the HVAC unit is abutted directly below the window and within a
17 frame that gives the appearance that it's an integrated window system. The revised
18 elevations shall be submitted to, and approved by, the Current Planning Project Manager
19 prior to building permit approval.
- 20 11. The applicant shall submit revised elevations depicting added architectural detailing
21 elements along the ground floor of the Lake Washington Blvd N facade. The revised
22 elevations shall be submitted to and approved by the Current Planning Project Manager
23 prior to building permit approval.
- 24 12. The applicant shall increase the pitch of the shed roof element in order to strengthen the
25 building design to the satisfaction of the Current Planning Project Manager. Revised
26 elevations shall be submitted to, and approved by, the Current Planning Project Manager
prior to building permit approval.
13. The applicant shall submit a materials board subject to the approval of the Current
Planning Project Manager prior to building permit approval. The board shall include
color and materials for the following: guardrails, façade treatments, retaining walls,
raised planters, metal screens, sunshades, windows/frames, and columns. Acceptable
materials include a combination of brick, integrally colored concrete masonry, pre-
finished metal, stone, steel, glass, cast-in-place concrete, or other superior materials
approved at the discretion of the Administrator.
14. The applicant shall be required to submit a conceptual sign package which indicates the
approximate location of all exterior building signage. Proposed signage shall be
compatible with the building's architecture and exterior finishes and contributes to the
character of the development. The conceptual sign package shall be submitted to, and
approved by, the Current Planning Project Manager prior to building permit approval.
15. The applicant shall provide a lighting plan that adequately provides for public safety
without casting excessive glare on adjacent properties; at the time of building permit

1 review. Pedestrian scale and downlighting shall be used in all cases to assure safe
2 pedestrian and vehicular movement, unless alternative pedestrian scale lighting has been
3 approved administratively or is specifically listed as exempt from provisions located in
RMC 4-4-075 Lighting, Exterior On-Site.

4 16. The applicant shall submit bicycle parking detail demonstrating compliance with the
5 bicycle requirements outlined in RMC 4-4-080F.11.c for fixed structures. The bicycle
6 parking detail shall be submitted to and approved by the Current Planning Project
7 Manager prior to building permit approval.

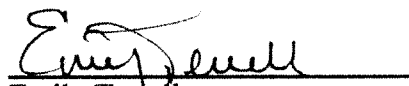
8 17. The applicant shall submit a revised Drainage Report and Plan in compliance with Core
9 Requirement No. 1. Specifically, the applicant would be required to redesign the
10 discharge of stormwater from the subject site to the natural discharge location to the
11 south. A detention vault or downstream capacity improvements would be required if the
12 downstream quantitative analysis reveals downstream capacity is not adequate and/or the
13 Direct Discharge exemption criteria is not met.

14 18. The TIA shall be revised to include a detailed table for each pipeline project. The revised
15 TIA shall be submitted to the Plan Reviewer prior to engineering permit approval.

16 19. The applicant shall revise the transportation study prior to engineering permit approval to
17 change the horizon year to the year that the project will be constructed (currently
18 proposed for 2016).

19 20. The applicant shall submit a revised TIA which includes a discussion of the AM peak
20 hour trips and/or a justification for the exclusion of the AM peak hour trips from the
21 analysis. The revised TIA shall be submitted to, and approved by, the Plan Reviewer
22 prior to engineering permit approval.

23 DATED this 16th day of April, 2015.

24 
25 Emily Terrell
26 City of Renton
Hearing Examiner *Pro Tem*

27 Appeal Right and Valuation Notices

28 RMC 4-8-080 provides that the final decision of the hearing examiner is subject to appeal to the
29 Renton City Council. RMC 4-8-110(E)(14) requires appeals of the hearing examiner's decision to
30 be filed within fourteen (14) calendar days from the date of the hearing examiner's decision. A
request for reconsideration to the hearing examiner may also be filed within this 14 day appeal
period as identified in RMC 4-8-110(E)(13) and RMC 4-8-100(G)(9). A new fourteen (14) day

1 appeal period shall commence upon the issuance of the reconsideration. Additional information
2 regarding the appeal process may be obtained from the City Clerk's Office, Renton City Hall – 7th
3 floor, (425) 430-6510.
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